

EXHIBIT E

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION: 09-11705-NMG

JONATHAN GREEN,
Plaintiff,

v.

CITY OF BOSTON, EDWARD DAVIS,
in his capacity as Chief of the
Boston Police Department, TIMOTHY
McCARTHY, individually and in his
official capacity as an Employee,
Agent and/or Officer of the
Boston Police Department,
Defendants.

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Exhibits: 1 - 3

YAFENG PAN
Tuesday, September 20, 2011, 10:24 a.m.
City of Boston
Law Department
City Hall, Room 615
Boston, Massachusetts 02201
--- Ann M. Lavoie, Court Reporter ---
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ALSO PRESENT:

Ms. Yingjie Abel, Mandarin Interpreter

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*** EXHIBITS RETAINED BY COUNSEL ***

1 Q. Where were you born?

2 A. China.

3 Q. When did you come here?

4 A. 1998.

5 Q. Are you a citizen?

6 A. Yes, right now.

7 Q. What's the highest level of education you
8 received?

9 A. I finished a little bit of college.

10 Q. Where did you go to college?

11 A. At Quincy.

12 Q. Is that Quincy College?

13 A. Yes.

14 Q. I'm going to call your attention to May 7,
15 2007. Do you recall that day?

16 A. Yes.

17 Q. Do you understand why you're here today?

18 A. Yes. I know.

19 Q. What is your understanding of why you're
20 here today?

21 A. To give a deposition.

22 Q. Were you working on May 7, 2007?

23 A. Yes.

24 Q. At the 7-Eleven on 252 West Newton Street

1 in Boston?

2 A. Yes.

3 Q. What is your usual shift?

4 A. Always from 10:00 to 7:00 in the evening.
5 Sometimes there is overtime.

6 Q. Is that 10:00 in the morning until 7:00 at
7 night?

8 A. Yes.

9 Q. Monday through Friday.

10 A. No. Right now only Monday but previously
11 yes.

12 Q. Typically you work Monday through Friday
13 but right now you don't.

14 A. Right.

15 Q. In 2007 did you work Monday through Friday?

16 A. Yes.

17 Q. How long had you been working Monday
18 through Friday, the 10 a.m. to 7 p.m. shift, in
19 2007?

20 A. Five years.

21 Q. On your shift how many other people worked
22 with you?

23 A. Normally there would be two people on the
24 shift.

1 Q. Two people including you.

2 A. Right.

3 Q. Who was the other person typically on the
4 10 a.m. to 7 p.m. shift?

5 A. Mr. Pan.

6 Q. That's your uncle Mr. Pan.

7 A. Yes.

8 Q. What were your responsibilities during your
9 shift?

10 A. Cashier.

11 Q. Other than cashier did you have any other
12 responsibilities?

13 A. Did some accounting, some number work.

14 Q. Did you have to stock shelves?

15 A. Sometimes.

16 Q. Other than stocking shelves, accounting and
17 cashier did you do anything else during your shift?

18 A. No.

19 Q. I see that you're wearing glasses today.
20 What do you need them for?

21 A. Because I'm nearsighted. Normally I wear
22 contact lenses.

23 Q. Do you wear contact lenses or glasses every
24 day?

1 A. Yes.

2 Q. How many cash registers are at the 7-Eleven
3 at 252 West Newton Street?

4 A. Two.

5 Q. Are they always both operational?

6 A. Yes.

7 Q. Is it that one person during the shift is
8 working on one register and the other person is
9 working on the other register? Do you alternate?
10 Is it just two registers when it's busy?

11 A. Two people rotate.

12 Q. Two people rotate on one register.

13 A. There are two registers. There's no
14 restriction as to which register to be used.

15 Q. At all times are two people operating two
16 registers?

17 A. Yes.

18 Q. At some point on May 7, 2007, do you recall
19 a group of teenagers coming into the 7-Eleven?

20 A. Two of them.

21 Q. Had you seen these teenagers before?

22 A. Yeah. I did. They just came here for
23 trouble.

24 Q. The teenagers came in for trouble.

1 A. Yeah.

2 Q. Can you please explain what you mean by the
3 two teenagers came in for trouble?

4 A. They took a dollar bill with them standing
5 somewhere in the middle and wanted to steal the
6 candies.

7 Q. Why do you think that these two teenagers
8 were trying to steal candy?

9 A. I saw them. They would have one person
10 hide somewhere so I wouldn't be able to see. When I
11 walked over there, they were not so happy.

12 Q. Where did you walk to that upset the
13 teenagers?

14 A. Because our candies were located in the
15 middle of the store. Our candies normally cost
16 \$1.09, and they didn't have that much money. They
17 came not once. They came quite a few times.

18 Q. Let me back up. What time did these two
19 teenagers come into the 7-Eleven?

20 A. I remember around the noontime.

21 Q. Considering that your shift is
22 approximately nine hours long, I want to make sure
23 we're talking about the incident that we're here for
24 today.

1 MS. SKEHILL MAKI: I just want Ms.
2 Pan to listen to the question from you very
3 carefully and make sure she only answers the
4 question that's being asked.

5 Q. (By Ms. Skehill Maki) Do you understand the
6 questions that are being asked?

7 A. I understand.

8 Q. With respect to the two teenagers that came
9 into the store you testified earlier that you
10 believed them to be stealing candy from a middle
11 aisle. When you observed what you believed you
12 observed, what did you do?

13 A. They were standing there with one person
14 trying to hide or block a view.

15 MR. SPENCER: The question was,
16 What did you do?

17 A. I walked there, because I wanted to walk
18 and stand by their side.

19 Q. When the teenagers came in, were you behind
20 the register then?

21 A. Yes.

22 Q. After they came in and went over to the
23 candy aisle, did you also walk over to the candy
24 aisle?

1 A. Yes.

2 Q. What did you do while you were standing in
3 the candy aisle?

4 A. I just stood there. I was pretending I had
5 put stuff on the shelf.

6 Q. Were you doing that so you could observe
7 what the two teenagers were doing?

8 A. Yes.

9 Q. Did you say anything to them?

10 A. No.

11 Q. Did they say anything to you?

12 A. They were swearing with very dirty words.

13 Q. Were they swearing at you?

14 A. They should be.

15 Q. I don't understand why they should be
16 swearing at you. Clarify.

17 A. Because I was there standing beside them.
18 They were not happy.

19 Q. How did they express their unhappiness?

20 A. They were using very bad swearing words.

21 Q. Were they speaking to each other or
22 speaking directly to you?

23 A. They were swearing together. They were
24 swearing, matching.

1 Q. Do you know if his name is Jonathan Green?

2 MR. SPENCER: Objection.

3 A. No.

4 Q. Is that the individual that you were just
5 about to speak about, the picture of Exhibit 2?

6 MR. SPENCER: Objection.

7 A. Yes.

8 Q. You testified earlier that you went behind
9 the register to help Mr. Pan, and you said the name
10 Mr. Green. Please go forward.

11 A. He was reading the newspaper. There were a
12 lot of people, so we had to keep an eye on people.
13 Some people wanted to steal just because we seem to
14 be too busy with customers.

15 Q. Does your store have a lot of difficulty
16 preventing theft?

17 A. We also have cameras, but the cameras were
18 actually in the basement, so we had to use our eyes
19 to watch.

20 Q. Typically does your store lose a lot of its
21 merchandise due to theft?

22 A. Yes.

23 Q. As you're standing behind the cashier and
24 you identified Mr. Green as reading the newspaper,

1 what happened next?

2 A. He said, Why are you staring at me? Just
3 because I'm black?

4 Q. He said that to you.

5 A. Yes.

6 Q. Had you been looking at Mr. Green?

7 A. Yeah, because he was standing there very
8 strangely and it was kind of scary.

9 Q. Can you describe why it was scary?

10 A. He was walking back and forth there and
11 swearing. He was swearing with a very loud voice.

12 Q. Who was he swearing at?

13 A. He was swearing. Definitely he was
14 probably swearing at whoever would stare at him.

15 Q. While you're behind the register are you
16 actually ringing people up at this point?

17 A. Repeat the question.

18 Q. You testified that you went behind the
19 register because it was so busy. Were you actually
20 ringing up customers at this point?

21 A. Yeah. I got busy with doing the cashing
22 machine, but I also was keeping an eye on customers.

23 Q. Where were the two teenagers that had been
24 in the candy aisle at this point after you went

1 behind the register?

2 A. They walked over to the cash register to
3 stand in the line.

4 Q. Then what happened?

5 A. Then, this person right here, he was
6 swearing. He was saying racial discrimination and
7 he was referring to us discriminating against him
8 because he was black.

9 Q. When you say "this person right here," are
10 you referring to this man that's in the photograph
11 marked as Exhibit 2?

12 A. Yes.

13 Q. What else happened?

14 A. Then there was another person. He was
15 wearing plainclothes. I didn't initially know that
16 he was a police person.

17 Q. What else?

18 A. He then talked to him.

19 THE INTERPRETER: The interpreter
20 would like you to know that there are three ways to
21 translate that sentence. One is, What's the matter?
22 What's up? What's wrong?

23 Q. (By Ms. Skehill Maki) Who did the police
24 officer say "What's the matter," "What's up,"

1 "What's wrong" to?

2 A. He was talking to the man in Exhibit 2.

3 Q. Did you say anything to the police officer?

4 A. No.

5 Q. How did you know the man in the store was a
6 police officer?

7 A. He did show his badge to him.

8 Q. Prior to him showing his badge did you know
9 that that man was a police officer?

10 A. No. Not at the beginning. He was wearing
11 Red Sox clothes.

12 Q. After the police officer said, What's up,
13 to the man in Exhibit 2, what happened?

14 A. Then he said, None of your business. That
15 means he was saying, None of your business to the
16 police officer.

17 Q. What happened next?

18 A. Then he was talking very loudly. A lot of
19 customers were looking at him. Some customers were
20 actually scared. They were standing there.

21 Q. Where was the man that's pictured in
22 Exhibit 2 standing, when he was talking really loud?

23 A. He was standing by the register. Because
24 my newspaper stand was on the side, he was actually

1 discussion. Can you tell me what happened after
2 that?

3 A. Then the police started saying, If you have
4 no business here, please leave the place.

5 Q. What happened after that?

6 A. Then the police had the money. Then they
7 actually walked out together.

8 Q. Did the police officer purchase any items?

9 A. Actually, did he buy anything? I was kind
10 of scared. I didn't actually do the cashier work
11 for him.

12 Q. Why were you scared?

13 A. Because he was so loud. It looked like he
14 was going to get into a fight.

15 Q. Who did it look like he was going to get
16 into a fight with?

17 A. He was yelling very loud. He was saying,
18 None of your business, to the police officer. He
19 wanted the police to leave.

20 Q. Other than saying, None of your business,
21 to the police officer, did you hear the man depicted
22 in Exhibit 2 say anything else?

23 A. Afterwards the police actually asked him to
24 leave.

1 2 and the police officer?

2 A. Two police cruisers arrived. They took him
3 away.

4 Q. Did you see the man in Exhibit 2 get
5 handcuffed?

6 A. Yes.

7 Q. Where was he handcuffed?

8 A. He was standing there. He was handcuffed
9 from his back.

10 Q. His hands were behind his back.

11 A. Right.

12 Q. How many officers were around him, when he
13 was being cuffed?

14 A. It seems that there were two or three.

15 Q. Were they near a police cruiser, when he
16 was being handcuffed?

17 A. Yeah.

18 Q. After he was handcuffed, did you see
19 anything else?

20 A. It looked like he wanted to run away, I
21 thought.

22 Q. Describe why you think it looked like he
23 was trying to run away.

24 A. Because two or three policemen were not

1 enough to press him down.

2 Q. What do you mean by "press him down"?

3 A. He looked like he was very furious.

4 Q. Did you say fearless?

5 A. Furious.

6 Q. Furious or fearless.

7 A. Furious.

8 Q. Yes.

9 A. Scary.

10 Q. Prior to the man in Exhibit 2 getting
11 handcuffed, did you see what happened before that?

12 A. Before that I wasn't sure.

13 Q. Other than seeing Mr. Green handcuffed, did
14 you see anything going on between him and the police
15 officer before, while they were outside?

16 A. I only heard loud arguments. I didn't know
17 actually what they were saying. At that point I was
18 with the cash register.

19 Q. After the man in Exhibit 2 was handcuffed,
20 did you see him get into a police cruiser?

21 A. Yes.

22 Q. Did you ever see any of the officers take
23 the man in Exhibit 2 by the collar and smash his
24 head against the roof of the police cruiser?

1 MR. SPENCER: Objection.

2 A. No. I just saw him being escorted.

3 THE INTERPRETER: For your
4 information, counsel, the word is a Chinese word.
5 The interpreter will find the best way to describe
6 it.

7 A. Escorted in the policeman's style.

8 MS. SKEHILL MAKI: Is policeman's
9 style a word that you have chosen, is that Ms. Pan's
10 word?

11 THE INTERPRETER: For your
12 information, maybe it's best if Ms. Pan described
13 the action.

14 Q. (By Ms. Skehill Maki) Please describe the
15 action.

16 A. Two or three police officers, they were
17 with their hands. They pushed him into the car.

18 Q. Prior to the man depicted in Exhibit 2
19 being pushed into the car, did you see any of the
20 officers strike Mr. Green or the man in Exhibit 2?

21 A. No.

22 Q. Can you describe the police officers that
23 you saw putting the man in Exhibit 2 into the car?

24 A. Yes. I was inside the store.

1 Q. Prior to that day had you ever seen the man
2 pictured in Exhibit 2 before?

3 A. I saw him twice or three times while he was
4 walking. I believe he lived on St. Botolph. I did
5 see him walking by.

6 Q. Had he ever come into the 7-Eleven that you
7 worked at before?

8 A. Before, you mean.

9 Q. Before the day when this happened.

10 A. Before this day, no.

11 Q. Has he come in after May 7, 2007?

12 A. He didn't come into the store afterwards.
13 I think he did dare not want to come in.

14 Q. What do you mean by that?

15 A. Afterwards he would think it was
16 troublesome. I was just guessing.

17 Q. The teenagers that you had observed in the
18 candy aisle and that are marked here as T1 and T2,
19 do you recall if they purchased any items that day?

20 A. They bought chips for . 99 cents.

21 Q. They purchased that from you at register 2.

22 A. Yes. I did it for them.

23 Q. At any time did you see the police officer
24 who had been inside the store hit or strike the man

1 depicted in Exhibit 2?

2 A. No. I only heard the police officer saying
3 something like, You should leave this place.

4 Q. After they had left the store, did you ever
5 see the police officer that had been inside the
6 store hit or strike Mr. Green, the man depicted in
7 Exhibit 2?

8 A. No. I was standing behind the cash
9 register. I only saw them arguing. That means that
10 he was arguing with the police officer.

11 Q. I want to make sure my question is
12 understood. While the two men were outside, the
13 police officer and the man depicted in Exhibit 2,
14 did you ever see the police officer hit or strike
15 Mr. Green or the man depicted in Exhibit 2?

16 A. No.

17 Q. Right now it's 11:40. You said you had to
18 leave at 11:30. I want to make sure you get out of
19 here.

20 A. Because I have two children. There will be
21 a school bus.

22 Q. I understand that you have childcare
23 issues. You arrived here at 10:20 this morning.
24 I've only been able to question you for an hour and